

1 PHILLIP A. TALBERT
2 United States Attorney
3 PETER K. THOMPSON (HI 5890)
Acting Regional Chief Counsel, Region IX
Social Security Administration
4 MARCELO ILLARMO (MABN 670079)
Special Assistant United States Attorney
5 160 Spear Street, Suite 800
San Francisco, California 94105
6 Telephone: (415) 977-8944
Facsimile: (415) 744-0134
7 Email: Marcelo.Illarmo@ssa.gov
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9 Attorneys for Defendant

10 UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

11 ERIC WILLIAM CARVER,) Case No. 1:20-cv-00565-SKO
12)
13 Plaintiff) **STIPULATION AND
14 v.) ORDER FOR AWARD OF ATTORNEY'S
15 KILOLO KIJAKAZI,) FEES UNDER THE EQUAL ACCESS TO
16 Acting Commissioner of Social Security,) JUSTICE ACT (EAJA)
17) (Doc. 33)
Defendant)
18)
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19 IT IS HEREBY STIPULATED by and between the parties through their undersigned counsel,
20 subject to the approval of the Court, that Plaintiff shall be awarded attorney's fees and expenses
21 under the Equal Access to Justice Act (EAJA), 28 U.S.C. sec. 2412(d), in the amount of eight
22 thousand six hundred seventy-five dollars (\$8,675.00), and no costs under 28 U.S.C. § 1920. This
23 amount represents compensation for all legal services rendered on behalf of Plaintiff by counsel in
24 connection with this civil action, in accordance with 28 U.S.C. §§ 1920; 2412(d). Accordingly,
25 should this Court award fees and expenses under EAJA pursuant to this stipulation, Plaintiff's motion
for attorney fees (ECF 31) would be moot.

26 After the Court issues an order for EAJA fees to Plaintiff, the government will consider the
27 matter of any assignment of EAJA fees by Plaintiff to her counsel Ashish A. Agrawal (Counsel).
28 Pursuant to *Astrue v. Ratliff*, 560 U.S. 586, 598, 130 S.Ct. 2521, 177 L.Ed.2d 91 (2010), the ability to

1 honor the assignment will depend on whether the fees are subject to any offset allowed under the
2 United States Department of the Treasury's Offset Program. After the order for EAJA fees is
3 entered, the government will determine whether they are subject to any offset.

4 Fees shall be made payable to Plaintiff, but if the Department of the Treasury determines that
5 Plaintiff does not owe a federal debt, then the government shall cause the payment of fees, expenses
6 and costs to be made directly to Counsel pursuant to an assignment executed by Plaintiff. Any
payments made shall be delivered to Counsel.

7 This stipulation constitutes a compromise settlement of Plaintiff's request for EAJA attorney
8 fees, and does not constitute an admission of liability on the part of Defendant under the EAJA or
9 otherwise. Payment of the agreed amount shall constitute a complete release from, and bar to, any
10 and all claims that Plaintiff and/or Counsel, including his firm, may have relating to EAJA attorney
11 fees in connection with this action.

12 This award is without prejudice to the rights of Jonathan Pena to seek Social Security Act
13 attorney fees under 42 U.S.C. § 406(b), subject to the savings clause provisions of the EAJA .
14

15 Respectfully submitted,

16 Dated: March 3, 2022

17 By: /s/ Jonathan Pena *
18 JONATHAN PENA
19 By email authorization on __3/3/22
20 Attorney for Plaintiff

21 Dated: March 3, 2022

PHILLIP A. TALBERT
United States Attorney

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By: /s/ Marcelo Illarmo
MARCELO ILLARMO
Special Assistant United States Attorney

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ORDER

Based upon the parties' foregoing Stipulation for the Award and Payment of Equal Access to Justice Act Fees, Costs, and Expenses (the "Stipulation") (Doc. 33), **IT IS ORDERED** that fees and expenses in the amount of \$8,675.00 as authorized by 28 U.S.C. § 2412, and no costs as authorized by 28 U.S.C. § 1920, be awarded subject to the terms of the Stipulation.

IT IS FURTHER ORDERED that Plaintiff's motion for attorney fees (Doc. 31) is DENIED as MOOT.

IT IS SO ORDERED.

Dated: March 4, 2022

/s/ Sheila K. Oberto

UNITED STATES MAGISTRATE JUDGE